



Texas Department of Health
Office of General Counsel

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To Whom It May Concern:

I am the attorney at the Texas Department of Health (TDH) responsible for legal issues relating to the implementation and enforcement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Your request for a business associate contract has been referred to me by the Bureau of Vital Statistics.

Reporting vital events to TDH is not one of the activities that requires a business associate agreement under HIPAA. The department is not performing any covered function on behalf of your facility.

You do not need a business associate contract to submit protected health information (PHI) to TDH for disclosures required by law or for public health activities. You also do not need the consent or authorization of the person whose protected health information you are providing to TDH. These exceptions to authorization are found in 45 CFR §164.512(a) and (b). You are required by law to submit vital information to TDH or local public health authorities. Health & Safety Code, Chapters 191-195. (45 CFR §164.512(a)) applies to this reporting requirement. The HIPAA Privacy regulations also permit covered entities to report of vital events to a public health authority without the authorization. (45 CFR §164.512(b))

You also do not need a business associate contract with TDH to submit PHI to TDH for health oversight activities conducted by the department, including licensing and regulatory programs, law enforcement activities, relating to the ability of TDH to take enforcement actions, or for judicial or administrative purposes. (45 CFR §164.512 (d), (e) and (f)).

I am enclosing a notice that TDH will place on its web site within the next few weeks to explain the HIPAA privacy standard exceptions to reporting entities to TDH. Please take the liberty of distributing this message to other interested persons in your organization.

If you have questions or have additional information which would clarify your need to enter into a business associate contract with TDH, please feel free to contact me at the above address, Office of General Counsel, by telephone at (512) 458-7236, or electronic mail at joan.bates@tdh.state.tx.us.

Sincerely,

Joan Carol Bates
Assistant General Counsel

JB/WC/IM# 80557